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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant(s): Steve Currid  
International Application No.: PCT/GB97/03351  
International Filing Date: 04 December 1997  
For: NON-RETURN DEVICE  
Filed: Herewith  
Examiner: Not Yet Assigned  
Art Unit: Not Yet Assigned  
Attorney Docket No.: 232.7548USU

BOX DAC  
COMMISSIONER FOR PATENTS  
Washington, D.C. 20231

Attention: Office of Legal Affairs

**PETITION FOR REVIVAL OF PATENT APPLICATION ABANDONED  
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

The above-identified application became abandoned for failure to provide the full U.S. Basic National Fee by 30 months (37 C.F.R. §1.495(b)(2)).

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:  
(1) Petition fee;  
(2) Proposed response and/or issue fee; and  
(3) Verified statement that the abandonment was unintentional.

1. Petition fee

\_\_\_ Small entity - fee \$\_\_\_ (37 CFR §1.17(m))  
Small entity statement enclosed herewith.  
Small entity statement previously filed.

04/08/2002 UEDUVIJE 00000012 10089587

02 FC:141

1280.00 DP

X Other than small entity - fee **\$1,280.00** (37 C.F.R. §1.17(m))

2. Proposed response and/or fee

A. The proposed response and/or fee to the above-noted Office action in the form of \_\_\_\_\_ (identify type of response):  
\_\_\_\_ has been filed previously on \_\_\_\_\_.  
\_\_\_\_ is enclosed herewith.

**B. The U.S. Basic National fee of \$ 890.00**

X has been paid previously on \_\_\_\_\_  
is enclosed herewith.

### 3. Verified statement

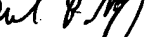
The entire delay in filing the U.S. Basic National Fee from the due date of June 4, 1999 until the filing of this petition pursuant to 37 CFR 1.137(b) was unintentional.

The attached declaration of Raymond William Doughty, Stephen Currid, and William Reddick shows the date that the applicant first became aware of the abandonment of the application and as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

4. Declarations from Raymond William Doughty, Stephen Currid, and William Reddick are enclosed.

March 29, 2002  
Date

  
Paul D. Greeley, Esq.  
Attorney for Applicant(s)  
Registration No. 31,019  
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.  
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**CERTIFICATE OF EXPRESS MAILING**

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" Certificate No. **EV093432332US**, service under 37 CFR §1.10 and is addressed to: Box DAC, Commissioner for Patents, Washington, D.C. 20231 on March 29, 2002.

Jeffrey J. Scepanski  
(Typed name of person mailing paper)

Jeffrey J. Deparanti  
(Signature of person mailing paper)

## Declaration

I Raymond William Doughty of Sycamore Barn, Sycamore Green, Lower Cumberworth, Huddersfield HD8 8PF, United Kingdom

do hereby solemnly and sincerely declare as follows:

Hepworth Building Products Limited of Hazlehead, Crow Edge, Sheffield S36 4HG (hereinafter 'the company') was formed in 1988 from the merger of the Hepworth Iron Company Limited and Bartol Plastics Limited. Hepworth Building Products International Limited was also formed in 1988 and handled the export activities of Hepworth Building Products Limited.

I am the Technical Development Director of the company and have been so employed since June 1998. I have been employed by the company since its formation in 1988.

Since November 1995 I have administered the intellectual property portfolios of the company. Prior to 1998, this involved liaison with the company's Marketing Director and R&D Director .

During a period extending from approximately July 1995 to February 1997, Stephen Currid, an employee of the company, made an invention for a non-return device.

In accordance with our operating practice at that time, I was contacted by Robert Beever, R&D Director, and subsequently discussed the invention and the commercial objectives for the product with Roger Tattersall, Product Development Director and Nick Gale, Sales & Marketing Director of the company. It was duly decided that a United Kingdom patent application should be filed and I therefore instructed Messrs Marks & Clerk of 57-60 Lincoln's Inn Fields, London WC2A 3LS to proceed with an application.

In accordance with usual practice, the invention was discussed with Simon Mounteney, (a partner at Marks & Clerk), a specification was drafted and United Kingdom patent application was subsequently filed on 4<sup>th</sup> December 1996. That application was awarded the application number: 9625202.8.

In accordance with our established procedure at that time, I subsequently discussed the strategy for securing overseas protection with Quentin Spratt, Managing Director of Hepworth Building Products International Ltd, during a period extending from April 1997 to October 1997. At that time, we were unable to reach a definite conclusion as to the territories in which patent protection should be pursued. We therefore decided that a PCT application should be filed and instructed Messrs Marks & Clerk accordingly.

PCT application number PCT/GB97/03351 was duly filed on 4<sup>th</sup> December 1997, claiming priority from GB 9625202.8. This application was published on 11<sup>th</sup> June 1998 as WO 98/25059 and therefore had a deadline for entering the national phase under Chapter II of 4<sup>th</sup> June 1999.

Prior to this deadline, in January 1998, certain activities of the company were divided between three operating businesses. Those businesses became known as "Hepworth Drainage", "Hepworth Concrete" and "Hepworth Plumbing". Each of these businesses had a Managing Director, a Technical Director and a Commercial Director. However, certain functions such as human resources, finance and technical development (which includes the management of intellectual property) remained as centralised functions within the company. The export activities of Hepworth Building Products International Limited were divided between these operating businesses and Hepworth Building Products International Limited became inactive.

Following this change in structure, I continued to administer the intellectual property portfolios of the operating businesses. In this capacity, I liaised with the relevant operating business personnel.

After the establishment of the operating businesses, it was the normal and established practice of the company that I discussed PCT patent applications with the respective

managing, technical and commercial directors of the operating businesses. The decisions regarding which territories patent applications should be pursued in were based upon the level of protection afforded by any given application and the size of the potential market for the product in that particular territory.

Due to the nature of the product in question, the commercialisation of the non-return device forming the subject of WO 98/25059 became the responsibility of Hepworth Plumbing under the new structure.

During the course of the early part of 1999, I was aware of the need to determine the states in which the PCT application would enter the national phase. Unfortunately, work commitments prevented a formal meeting between me and the relevant Hepworth Plumbing personnel.

Following a discussion that I had with Mr Currid (who by then had been promoted to the position of Technical Director of Hepworth Plumbing) during May 1999, I decided that the PCT application should enter the national phase on the basis of a previous discussion that I had had with Mr Gale (who by then had been promoted to the position of Managing Director of Hepworth Plumbing) in January 1999. In this discussion, Mr Gale had indicated that Europe, the Middle East and Australasia were the intended markets for the product to which the patent applications related. I therefore instructed Marks & Clerk to cause the PCT application to enter the national phase in the appropriate states and they acted accordingly. Shortly after 4<sup>th</sup> June 1999, Mr Gale left the business, to be replaced by the current Managing Director (Terence Reddick).

On or about 28<sup>th</sup> July 2001 I discussed this invention with Mr Currid again, for the purpose of reviewing the portfolio of patents and applications in place worldwide. At this time, Mr Currid queried why we had not pursued protection in the USA, because the market seemed so important.

A subsequent discussion between me and Mr Reddick during October 2001 confirmed that the assumption that I made regarding territories in May 1999 was incorrect and that there had in fact always been significant interest in the market of the United States of America.

Following my discussion with Mr Reddick, I realised that he had assumed that we were proceeding with an application in the United States of America until that discussion.

I promptly contacted and explained the situation to Mr. Mounteney. Mr. Mounteney then initiated discussions with respect to options to correct the situation on or about 6<sup>th</sup> November 2001 with Mr. Paul D. Greeley, Esq. of Ohlandt, Greeley, Ruggiero & Perle of One Landmark Square, Stamford, CT 06901. At the request of Mr. Greeley, Mr. Mounteney then investigated the circumstances of the situation and prepared draft declarations for signing by me, Mr. Currid and Mr. Reddick, which were sent to Mr. Greeley on 19<sup>th</sup> December 2001. On or about 15<sup>th</sup> January 2002 Mr. Greeley provided commentary to Mr. Mounteney with respect to the draft declarations. Mr. Mounteney promptly finalized the declarations, secured signatures and returned them to Mr. Greeley.

#### **DECLARATION STATEMENT**

I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that wilful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such wilful false statements may jeopardize the validity of the application or any patent issued thereon.

Subscribed this ..... 4<sup>th</sup> ..... day of MARCH ..... 2002.

  
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## **Declaration**

I Stephen Currid of 4 Mill Road, Meltham, Holmfirth  
do hereby solemnly and sincerely declare as follows:

I am the Technical Director of Hepworth Plumbing of Edlington Lane, Edlington, Doncaster, South Yorkshire, DN12 1BY, and have been so employed since January 1998.

Hepworth Plumbing is an operating business of Hepworth Building Products Limited. Hepworth Building Products Limited was formed in 1988 from the merger of the Hepworth Iron Company Limited and Bartol Plastics Limited. Hepworth Building Products International Limited was also formed in 1988 and handled the export activities of Hepworth Building Products Limited.

I joined Hepworth Building Products on June 1, 1995 as a Senior Product Designer. I subsequently became Product Design Manager in January 1996.

During a period extending from approximately July 1995 to February 1997, I supervised the development of an invention for a non-return device.

In accordance with our operating procedures at that time, I contacted Roger Tatersall (our Product Development Director), Phil Thomas and Nick Gale (our Sales and Marketing Director) and subsequently discussed the invention and the commercial objectives for the product, in conjunction with Raymond Doughty (who was responsible for the administration of our intellectual property portfolios). We duly decided that a United Kingdom patent application should be filed and Mr Doughty therefore instructed Messrs Marks & Clerk of 57-60 Lincoln's Inn Fields, London WC2A 3LS, to proceed with an application.

During June 1997, I was contacted by Mr Gale and we discussed the strategy for securing overseas protection. Our discussions were inconclusive and we were unable to reach a definite decision as to the territories in which patent protection should be pursued. However,

I believe it was at least partly as a consequence of these discussions that a decision was made to file a PCT application and Messrs Marks & Clerk were instructed accordingly.

In January 1998, the activities of Hepworth Building Products were divided between three operating businesses. Those businesses became known as "Hepworth Drainage", "Hepworth Concrete" and "Hepworth Plumbing". It was that time that I became the Technical Director of Hepworth Plumbing.

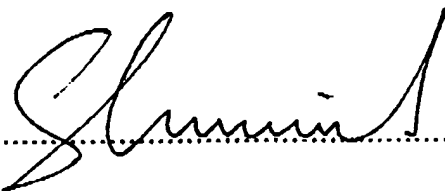
I was aware of a need to determine countries in which the PCT application should enter the national phase by a date in June 1999. However, work commitments prevented a meeting between me, Mr Doughty and the other relevant Hepworth Plumbing personnel prior to that deadline. This did not concern me greatly, because I knew that Mr Doughty would discuss the matter with Mr Gale, who had become our Managing Director by that time.

On or about 28<sup>th</sup> July 2001 I met with Mr Doughty to discuss the invention generally and our worldwide patent for the invention specifically. I enquired as to why no patent application had been filed in the USA, but Mr Doughty did not know the answer.

#### **DECLARATION STATEMENT**

I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that wilful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such wilful false statements may jeopardize the validity of the application or any patent issued thereon.

Subscribed this ..... 7<sup>th</sup> ..... day of ..... MARCH ..... 2002.

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## Declaration

I Terence William Reddick of 18 Blackthorn Rise, Ravenfield, Rotherham, South Yorkshire S65 4RF

do hereby solemnly and sincerely declare as follows:

I am the Managing Director of Hepworth Plumbing of Edlington Lane, Edlington, Doncaster, South Yorkshire, DN12 1BY, and have been so employed since September 1999.

Hepworth Plumbing was formed in January 1998 following the division of certain activities of Hepworth Building Products Limited between three operating businesses.

In my role as Managing Director, I am supported by *inter alia* a Technical Director (Stephen Currid), a Commercial Director (Keith Barker), a Finance Director (Geoff Killer), a Manufacturing Director (Tim Thompson), and a Logistics Director (Steve O'Leary). However, certain functions such as human resources, company finance and technical development (which includes the management of intellectual property) are supported or provided by centralised functions within Hepworth Building Products Limited.

Following my appointment, I was aware of the invention in question and believed that appropriate patent applications had been filed in pursuit of its protection. I was also aware that procedures were in place whereby Raymond Doughty (who was responsible for the administration of an intellectual property portfolio) would have discussed the patent strategy for the invention with my predecessor Nick Gale, Mr Currid and others. I was further aware of the importance of the US market for the product based on the invention and therefore assumed that patent protection would have been pursued in the United States of America.

It was only as a consequence of a recent discussion between me and Mr Doughty during October 2001 that I realised that a patent application had not been filed in the United States of America.

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## DECLARATION STATEMENT

I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that wilful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such wilful false statements may jeopardize the validity of the application or any patent issued thereon.

Subscribed this .....11<sup>th</sup>..... day of .....March..... 2002.

.....T. W. Redick.....